

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:14CR0175 AGF (DDN)
)	
MARK PALMER, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on certain joint pretrial motions¹ filed by Defendants Mark Palmer, Anthony Palmer, Samuel Leinicke, Charles Wolfe, and Robert Wolfe. Defendants are charged with multiple conspiracies to traffic in controlled substances and controlled substance analogues (Count I), to introduce and receive misbranded drugs (Count II), to launder money (Count III), to import controlled substances and controlled substance analogues (Count IV), and to traffic in smuggled goods (Count V). Defendants filed a joint motion to dismiss the Indictment, as unconstitutionally void for vagueness (Doc. No. 181); a joint motion to dismiss Count I of the Indictment, or in the alternative, to strike references to any substances that have been improperly charged as analogues to separately-scheduled cannabimimetic agents (Doc. No. 182); and a joint motion to dismiss pursuant to Fed. R. Crim. P. 7, essentially asserting that the Indictment fails properly to allege the required “knowledge” on the part of Defendants (Doc. No 185). Defendants

¹ Pursuant to the Magistrate Judge’s pretrial Orders, Defendant later filed motions to suppress and for a *Franks* hearing, which motions will be addressed in a separate Order.

also filed a motion for a bill of particulars. (Doc. No. 184.) All pretrial motions were referred to United States Magistrate Judge David D. Noce, pursuant to 28 U.S.C. § 636(b).

The motions were fully briefed by the parties, and on July 19, 2016, Magistrate Judge Noce issued an Order and Recommendation that the motions to dismiss be denied, and that the motion for bill of particulars be granted in part and denied in part. Defendants filed Joint Objections to the Order and Recommendation (Doc. No. 282), to which the United States filed a response (Doc. No. 289).

When a party objects to a report and recommendation in a criminal case, the court is required to “make a de novo determination of those portions of the record or specified proposed findings or recommendations to which objection is made.” *United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir. 2003) (quoting 28 U.S.C. § 636(b)(1)).

I conducted a *de novo* review of the motions to dismiss. Based on this review, I agree with Judge Noce’s recommendation that the motions to dismiss be denied for the reasons stated in the Order and Recommendation. I also note that since the Order and Recommendation was issued, many of the arguments raised by Defendants have been rejected in other cases. *See, e.g., United States v. Reulet*, Case No. 14-40005-03-DDC, 2016 WL 7386443 (D. Kan. Dec. 21, 2016); *United States v. Sloan*, No. 4:14CR152 RWS/NCC, 2016 WL 6989768 (E.D. Mo. September 23, 2016), *adopted by* Order dated November 29, 2016; *United States v. Hawkins*, No. 2:13-cr-04049-BCW-2, 2016 WL 1390005 (W.D. Mo. Apr. 7, 2016).²

² I further agree with and adopt Judge Noce’s Order with respect to the motion for bill of particulars. Following a ruling on the remaining pretrial motions, I will address deadlines for the disclosure of expert witnesses and reports, to the extent not already disclosed.

Accordingly,

IT IS HEREBY ORDERED that the Order and Recommendation on Motions to Dismiss and for Bill of Particulars issued by Judge Noce [Doc. No. 271] is **SUSTAINED, ADOPTED, AND INCORPORATED** herein.

IT IS FURTHER ORDERED that Defendants' Joint Motions to Dismiss [Doc. Nos. 181, 182, and 185] are **DENIED**.

A handwritten signature in black ink, appearing to read "Audrey G. Fleissig", is written over a horizontal line.

AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 28th day of December, 2016.